

M e m o r a n d u m**225.0130**

To: Mr. J. D. Dotson

Date: January 21, 1981

From: Mary C. Armstrong
Legal

Subject: Sale of Thermal and Chemical Care Units

As a result of the meeting held on January 14, 1981 with representatives from the [A] and their attorney, Mr. [X], we have examined the position taken with respect to the correct application of tax to thermal and chemical care units.

It was brought to our attention at the meeting that either a thermal and chemical care unit is prescribed for a patient in connection with a prescription for contact lenses. Some type of cleaning unit is necessary for the proper functioning of the contact lenses. When a replacement for a thermal or chemical care unit is needed the patient will frequently purchase the replacement unit over-the-counter at a drug store.

Sales and Use Tax Regulation 1592 provides that:

“A physician and surgeon or optometrist is the consumer of ophthalmic materials including eyeglasses, frames, and lenses used or furnished in the performance of his professional services in the diagnosis, treatment or correction of conditions of the human eye. Tax applies with respect to the sale of such materials to physicians and surgeons and optometrists.”

We are of the opinion that thermal care units and chemical care units are included within the meaning of the term “ophthalmic materials.” Accordingly, when thermal and chemical care units are furnished to patients by a physician and surgeon or optometrist as part of the purchase of contact lenses, the physician and surgeon or optometrist will be considered the consumer of the thermal and chemical care units and tax applies when such units are sold to the physician and surgeon or optometrist. In all other instances the physician and surgeon or optometrist is the retailer of such units and tax applies to the gross receipts from such a retail sale.

We understand that you will inform Mr. [X] of our change in interpretation. His address is:

[X]

MCA:ba

cc: Mr. Gary Jugum
Mr. D. J. Hennessy